

Message Text

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ACTION DLOS-04

INFO OCT-01 EUR-12 AF-06 ARA-06 EA-07 NEA-10 IO-11 ISO-00

FEA-01 ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00

CIAE-00 CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07

EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01 /148 W

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TO SECSTATE WASHDC 6331

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY TOKYO

AMEMBASSY MOSCOW

C O N F I D E N T I A L SECTION 1 OF 2 USUN 1016

E.O. 11652: GDS

TAGS: PLOS

SUBJ: LOS: GROUP OF FIVE COMMITTEE I MEETING, MARCH 13, 1976

1. SUMMARY. GROUP OF FIVE COMMITTEE I EXPERTS MET FOR PRELIMINARY EXCHANGE OF VIEWS ON ENGO REVISIONS OF ARTICLES 9, 21, 22, 24, 25 AND 26. IN GENERAL, REPS INDICATED THAT APPROACH TAKEN IN NEW ARTICLES IS SUBSTANTIAL IMPROVEMENT OVER SNT WHICH WITH CERTAIN IMPORTANT REVISIONS, COULD BE ACCEPTABLE IN CONTEXT OF OVERALL SATISFACTORY PACKAGE SETTLEMENT IN COMMITTEE I. GROUP OF FIVE VIEWS ARE GENERALLY IN ACCORD ON MOST IMPORTANT ISSUES RAISED BY NEW ARTICLES. GROUP AGREED NOT TO ADDRESS TEXTS OF REVISED ARTICLES UNTIL FURTHER PROGRESS IS MADE ON OTHER ISSUES AND GROUP OF 77 VIEWS ON COMPROMISE APPROACH IS CLARIFIED.

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2. ARTICLE 9. UK REP (WOOD) INDICATED PARAS. 1, 2, 3, AND

5 ARE VERY SATISFACTORY. IN RESPECT OF PARA. 4, THEY HAVE NO DIFFICULTY WITH REFERENCE TO COMMODITY ARRANGEMENTS AND COMPENSATION SCHEMES (SUBPARAS. (I) AND (III). THEY HAVE NO FIXED POSITION ON INTERIM PERIOD (PARA. 4(II) UNTIL AN EXACT FORMULATION FOR THE LIMIT IS SPECIFIED. AN ACCEPTABLE POSITION ON LENGTH OF SUCH AN INTERIM PERIOD WOULD BE DETERMINED BY THE LIMIT ITSELF. UK NOTED THAT SHOULD THE LIMIT BE THE WHOLE OF GROWTH SEGMENT IN NICKEL MARKET THEY MIGHT HAVE NO DIFFICULTY WITH AN INDEFINITE TIME LIMITATION.

3. JAPANESE REP (IGUCHI) FOCUSED ON ARTICLE 9(4) INDICATING THAT JAPAN IS WILLING TO STUDY POSSIBILITY OF COMMODITY ARRANGEMENTS. IF COMMODITY ARRANGEMENTS ARE FORMULATED, JAPAN WOULD OPPOSE A POWER IN THE AUTHORITY TO IMPLEMENT SUCH ARRANGEMENTS BY CONTROLLING PRODUCTION FROM EXISTING CONTRACTS. JAPAN WOULD BE WILLING TO GRANT AUTHORITY POWER TO IMPLEMENT ARRANGEMENTS IN RESPECT OF PRODUCTION BY ENTERPRISE.

4. JAPANESE VIEW INTERIM PERIOD 9(4) SUBPARA. (II) AS POTENTIALLY PROMISING AVENUE FOR COMPROMISE. REP INDICATED SOME CONCERN WITH DETERMINING A MECHANISM FOR ASSESSING TOTAL PRODUCTION AND DEMAND IN NICKEL MARKET BUT BELIEVE THAT THIS POINT CAN BE HANDLED IN FUTURE NEGOTIATION. SEVERAL ADDITIONAL POINTS OF CONCERN TO THEM WERE WHETHER OR NOT THE LIMIT WOULD BE SPECIFIED IN THE TREATY OR LEFT FOR LATER DECISION BY AUTHORITY AND WHETHER THE FIFTEEN YEAR PERIOD DISCUSSED WOULD BE A GUIDELINE FOR DURATION OF CONTRACT. ON LATTER TWO POINTS, U.S. REP (RATINER) NOTED THAT OUR DISCUSSIONS WITH DEVELOPING COUNTRY LEADERS INDICATED THEY ENVISAGED A LIMIT SPECIFIED IN THE TREATY AND DO NOT INTEND INTERIM PERIOD TO CORRESPOND WITH LENGTH OF CONTRACT.

5. JAPANESE MAINTAIN SUPPORT FOR COMPENSATORY ARRANGEMENTS AS AN EFFECTIVE WAY TO LIMIT POWER OF AUTHORITY. FURTHERMORE THEY PREFER TO USE EXISTING FINANCIAL INSTITUTIONS ALTHOUGH THEY ARE NOT PREPARED TO SPECIFY THE IMF AS THE MECHANISM. JAPAN WILL EXAMINE CONCRETE

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PROPOSALS FOR COMPENSATION BEFORE ESTABLISHING POSITION. ARTICLE 9 PARA. 6 (EQUITABLE SHARING) IS GENERALLY ACCEPTABLE TO JAPAN ALTHOUGH THEY ARE NOT CLEAR HOW IT WOULD APPLY DURING AN INTERIM PERIOD.

6. FRENCH REP (DE BEAUREGARD) INDICATED THAT REVISED ARTICLE 9 IS GENERALLY ACCEPTABLE IF THEY ARE SATISFIED WITH THE ASSEMBLY AND COUNCIL. WITH RESPECT TO COMMODITY

ARRANGEMENT, HE NOTED THAT WHILE FRANCE FAVORS THEM, THEY WOULD NOT WANT THE AUTHORITY TO BE A PARTY TO AN ARRANGEMENT EVEN TO REPRESENT PRODUCTION OF THE ENTERPRISE. FRANCE WOULD, HOWEVER, ACCEPT AUTHORITY'S PARTICIPATION IN SUCH COMMODITY ARRANGEMENTS.

7. WITH RESPECT TO INTERIM PERIOD, FRENCH STATED FOR FIRST TIME IN OUR RECOLLECTION THAT IF LIMITATION IS TIED TO NICKEL MARKET, FRENCH WOULD WANT LIMIT TO REMAIN IN FORCE UNTIL A NICKEL COMMODITY ARRANGEMENT IS IN OPERATION.

8. USSR REP (ROMANOV) INDICATED WILLINGNESS TO CONSIDER ARTICLE 9 APPROACH IN EXCHANGE FOR OVERALL PACKAGE SETTLEMENT IN COMMITTEE I, PARTICULARLY IF ARTICLE 22 IS ACCEPTABLE TO THEM. SOVIETS HAVE SOME RESERVATIONS ABOUT PARA. 4(I) IF IT IMPLIES GIVING BROAD POWERS TO AUTHORITY, PARTICULARLY OVER PRICES. IN RESPONSE TO QUESTION FROM UK, ROMANOV INDICATED THEY HAVE NO OBJECTION, HOWEVER, TO COMMODITY ARRANGEMENT APPROACH IF USSR IS PARTY TO ANY RELEVANT COMMODITY ARRANGEMENTS.

9. US REP INDICATED USG CONCERN WITH USE OF "PROTECT" IN CHAPEAU OF PARA. 4 SINCE IT IMPLIES WILLINGNESS TO TAKE MEASURES IN ADVANCE OF ANY ADVERSE EFFECTS. SUCH IMPLICATION FAILS TO EMPHASIZE COMPENSATORY MEASURES WHICH IS, IN US VIEW, MOST APPROPRIATE APPROACH. REP FURTHER NOTED THAT USG NOT SATISFIED WITH FORMULATION OF ELIGIBILITY TEST IN CHAPEAU. REP ALSO STATED USG CONCERN WITH PREMATURE ACCEPTANCE OF CONCEPT IF INTERIM PERIOD APPROACH SINCE IT MIGHT CREATE APPEARANCE THAT WE WOULD BE WILLING TO ACCEPT PRODUCTION CONTROLS. REP NOTED THAT IN EXAMINING CONCRETE PROPOSALS FOR INTERIM

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PERIOD, US WOULD NEED TO SEE THAT IT COULD HAVE NO PRACTICAL EFFECT ON OUR ABILITY TO PRODUCE. FURTHERMORE, THE LIMIT WOULD HAVE TO BE SPECIFIED IN TREATY AND COULD NOT BE RENEWABLE.

10. US REP NOTED STRONG US SUPPORT FOR COMPENSATORY SCHEMES INDICATING THAT USG IS URGENTLY STUDYING VARIOUS APPROACHES FOR ECONOMIC ADJUSTMENT ASSISTANCE TO ADDRESS LONG-TERM EFFECTS OF SEABED PRODUCTION ON DEVELOPING COUNTRY PRODUCERS AND THAT US WOULD SHARE RESULTS OF SUCH STUDIES WITH GROUP OF FIVE WITHIN A FEW WEEKS.

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CIAE-00 CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07

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JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

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11. IN RESPECT OF SUBPARA. (I) DEALING WITH COMMODITY ARRANGEMENTS, US REP NOTED THAT US IS WILLING TO CONSIDER SUCH ARRANGEMENTS ON A CASE-BY-CASE BASIS BUT COULD NOT ACCEPT OBLIGATION IN LOS TREATY TO NEGOTIATE SUCH ARRANGEMENTS. FURTHERMORE, REP NOTED THAT UNDER ANY ARRANGEMENTS THAT ARE EVENTUALLY ESTABLISHED, US WOULD NOT OBJECT TO AUTHORITY PARTICIPATION IN ARRANGEMENTS TO EXTENT OF THE ENTERPRISE'S PRODUCTION BUT THAT AUTHORITY SHOULD NOT REPRESENT ALL SEABED PRODUCTION.

12. ARTICLE 21. JAPAN AND UK INDICATED GENERAL ACCEPTABILITY OF REVISED ARTICLE 21. FRANCE HAD NO COMMENT. USSR REP INDICATED PREFERENCE FOR SUBSTITUTING "OVERSEE" FOR "CONTROL" IN PARA. 1. US REP NOTED THAT US COULD ACCEPT ARTICLE 21 IF DEFINITION OF "ACTIVITIES IN THE AREA" IN ARTICLE 1 IS SATISFACTORILY NEGOTIATED.
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13. ARTICLE 22. ALL MEMBERS OF GROUP INDICATED GENERAL ACCEPTABILITY OF ARTICLE 22 PENDING SATISFACTORY NEGOTIATION OF DETAILS IN ANNEX I. IN THIS REGARD, US, USSR, JAPAN, AND UK NOTED CONCERN WITH PHRASE "ON ITS BEHALF" IN PARA. 7. SOVIETS INDICATED THAT IF PRICE OF DIRECT ACCESS CONCEPT IS LOSS OF SOVEREIGN IMMUNITY PROVISION IN ANNEX I, ARTICLE 22 WOULD BE UNACCEPTABLE TO THEM. SOVIETS ALSO INDICATED CONCERN WITH "CONTROL" IN PARA. 3. UK AND JAPAN NOTED SOME CONCERN WITH STATE LIABILITY IMPLIED IN PARA. 3 REQUIREMENT FOR STATES TO TAKE "ALL NECESSARY MEASURES." UK PREFERS FORMULATION "NECESSARY AND APPROPRIATE" OR "NECESSARY AND REASONABLE."

14. ARTICLE 24. US AND USSR INDICATED THAT ARTICLE 24 IS GENERALLY ACCEPTABLE, NOTING DESIRABILITY OF SEPARATING ENTERPRISE FROM PRINCIPAL ORGANS OF AUTHORITY. US REP INDICATED IMPORTANCE TO US OF PARA. 1 IMPLICATION THAT COUNCIL AS WELL AS ASSEMBLY ARE GOVERNING BODIES AND OF PARA. 4 PROVISION FOR NON-INTERFERENCE BY VARIOUS ORGANS OF THE AUTHORITY IN THE WORK OF OTHER ORGANS. FRANCE AND UK NOTED OPPOSITION TO CREATION OF TRIBUNAL. FRENCH REP DECLINED TO COMMENT ON ESTABLISHMENT OF ENTERPRISE. JAPAN SUPPORTED US COMMENT ON IMPORTANCE OF PARA. 4.

15. ARTICLE 25. US, USSR, AND UK INDICATED OVERALL ACCEPTABILITY PROVIDED IT CONTAINS FOOTNOTE ON SPECIAL VOTING PROCEDURES. JAPAN NOTED PREFERENCE FOR FRENCH ASSEMBLY BECAUSE IT COULD PROVIDE ADDITIONAL PROTECTION FOR IMPORTERS, BUT THEY INDICATED WILLINGNESS TO ACCEPT THIS APPROACH IF ITS PROVES ACCEPTABLE TO GROUP OF 77. UK NOTED POTENTIAL PROBLEM IN FORMULATION OF PARA. 6 WITH RESPECT TO THE METHOD OF DESIGNATING WHETHER A QUESTION IS ONE OF PROCEDURE AND NOT OF SUBSTANCE. ALL MEMBERS OF GROUP INDICATED DESIRABILITY OF REFORMULATING PARA. 6 PROVIDED IT COULD BE DONE WITHOUT ENDANGERING VOTING PROTECTION WHICH IS INCORPORATED IN THIS PARAGRAPH.

16. GROUP AGREED THAT IT MAY ALSO BE DESIRABLE TO DEFINE CONFIDENTIAL

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"IMPORTANT QUESTION OF SUBSTANCE" IN PARA. 7. US SUGGESTED THAT NEGOTIATION OF A DEFINITION OF "IMPORTANT QUESTION OF SUBSTANCE" COULD EVENTUALLY BE TIED TO A MECHANISM FOR INVOKING SPECIAL VOTING PROCEDURES WHICH ARE REFERRED TO IN THE FOOTNOTE. SOVIETS INDICATED SOME

CONCERN WITH KIND OF ISSUES THAT MIGHT BE COVERED BY
SPECIAL VOTING PROCEDURES ENVISIONED BY FOOTNOTE.

17. ARTICLE 26. ALL MEMBERS OF GROUP OF FIVE INDICATED
BELIEF THAT REVISED ARTICLE 26 IS IMPROVEMENT OVER SNT.
JAPAN INDICATED SOME REMAINING CONCERN WITH PARA. 1
BUT FELT THAT IT REPRESENTS AN ACCEPTABLE COMPROMISE
TO ACHIEVE DELETION OF CONCEPT THAT ASSEMBLY IS SUPREME
POLICY MAKING ORGAN. USSR MAINTAINED THAT PARAS. 1 AND
3 SHOULD BE IMPROVED BUT WOULD BE WILLING TO LEAVE
ARTICLE ALONE IF THIS IS TACTICALLY DESIRABLE.
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